



Commission on Peace Officer Standards and Training

1601 Alhambra Blvd
Sacramento, CA 95816-7083
www.post.ca.gov

Date: October 6, 2006

Bulletin: No. 2006-18

Subject: Notice of Proposed Regulatory Action – Professional Certificates and Certificates of Course Completion - Regulations 1005, 1011, 1018, and 1055, and Procedures F-1 through F-6, and H-4

At its July 2006 meeting, the Commission approved proposed amendments to POST regulations and procedures that currently address professional certificates and certificates of course completion to make legislative and other changes. Legislative changes to Penal Code sections 13503 (h) and (i) eliminated POST authority to cancel or revoke peace officer certificates, as well as, request the return of cancelled or revoked certificates to the Commission.

In the context of modifying certificate regulations, POST created a new PAM format to place all certificate related text in one section, incorporate a web-based style, and establish new regulation numbers in the 9000 numbered series. When adopted, the new regulations will become part of Title 11, Division 9 of the California Code of Regulations (CCR). Existing regulations are part of Division 2 in the CCR.

Due to the sheer size of the project to reformat the PAM, staff will create the change proposals incrementally. This proposal covers "Chapter 7 - Certificates," the first proposal completed due to the urgency to reflect the 2003 legislative changes that affect POST certificates.

The attached notice describes the proposed changes and includes an invitation for written input on this proposal, the deadline for written comments, and information about requesting a public hearing.

The following information regarding the proposed regulatory action is located on the POST website at www.post.ca.gov/RegulationNotices/RegulationNotices.asp:

- POST Bulletin and Notice of Proposed Regulatory Action
- Text of Proposed Regulatory Action
- Initial Statement of Reasons.

Please direct inquiries about this proposed regulatory action to Anna Del Porto, Commission on Peace Officer Standards and Training, 1601 Alhambra Boulevard, Sacramento, CA 95816-7083, by email at Anna.DelPorto@post.ca.gov or by telephone at 916.227.4854, or by FAX at 916.227.5271. If Anna is unavailable, please contact Patricia Cassidy, by email at Pat.Cassidy@post.ca.gov or by telephone at 916.227.4847.

KENNETH J. O'BRIEN
Executive Director

Attachment: Notice of Proposed Regulatory Action

NOTICE OF PROPOSED REGULATORY ACTION

POST Professional Certificates and Certificates of Course Completion

Regulations 1005, 1011, 1018, and 1055; and Procedures F-1 through F-6, and H-4

Subject of Proposed Rulemaking

Notice is hereby given that the Commission on Peace Officer Standards and Training (POST) proposes to amend Regulation 1005(h) and delete Regulations 1011, 1018(f), 1055(l), and the incorporated Commission Procedures F-1, F-2, F-5, F-6, and H-4 in Title 11, Division 2 of the California Code of Regulations (CCR). The Commission is replacing the deleted regulations, regulation sections, and procedures now numbered in the 1000 series with new regulation numbers in the 9000 numbered series. The new regulations when adopted will become part of Title 11, Division 9 of the CCR.

Authority and Reference

The proposed changes are being made pursuant to the authority vested by Penal Code sections 13503 (powers of the Commission on POST), 13506 (power to adopt regulations), 13510.1 (mandates POST to establish a professional, peace officer certificate program), 13510.1(e) (authority to cancel certificates), 13510.3 (voluntary certificate program – record supervisors), 13510.7 (ineligibility status in training record) and Government Code section 1029 (disqualification from peace officer employment). The proposed changes are intended to interpret, implement, and make specific sections PC 832.4 (mandates Basic Certificate for certain officers), PC 13503(e) (implement programs to increase the effectiveness of law enforcement) (h) & (i) (restrictions on revocation and cancellation of certificates), PC 13506 (adopt regulations), PC 13510.1 (certification program for peace officers), PC 13510.1(e) (implements cancellation of certificates), PC 13510.3 (voluntary certificate program – record supervisors), PC 13510.7 (mandates POST to enter into record those individuals ineligible to be peace officers and those Basic Certificates that are deemed null and void), and Government Code section 1031 (defines qualifying education).

Public Comments Due By November 20, 2006

The Commission hereby requests written comments related to the proposed actions. Please direct all comments to Executive Director Kenneth J. O'Brien. **POST must receive all written comments before 5:00 p.m. on November 20, 2006**, by fax 916.227.5271 or by U.S. Mail addressed to the Commission on Peace Officer Standards and Training, 1601 Alhambra Boulevard, Sacramento, CA 95816-7083.

A public hearing is not scheduled. Pursuant to Government Code Section 11346.8, any interested person, or his/her duly authorized representative may request that POST hold a public hearing. POST must receive the written request no later than 15 days prior to the close of the public comment period.

Informative Digest/Policy Statement Overview

Currently Commission Regulations reflect that the Commission has the authority to cancel or revoke peace officer certificates, as well as, request the return of cancelled or revoked certificates to the Commission. Up until the legislative changes of January 2003, POST, upon notification of a peace officer felony conviction or peace officer disqualification, would cancel the peace officer's certificate and demand return of the certificate to the Commission. However, the legislative changes of January 2003, specifically the addition of PC 13503 (h) and (i), eliminated these authorities of POST.

Realizing that Commission Regulation 1011 and Procedure F-2 required amendments to reflect the changes resulting from the adoption of Penal Code sections 13503(h) and (i), staff began looking at all certificate regulations and procedures in the POST Administrative Manual. This review uncovered that certificate regulations are included in Regulations 1005(h), 1011, 1018(f), 1055(l), and Procedures F-1, F-2, F-3, F-4, F-5, F-6, and H-4. A proposal was made to POST Management to improve Commission regulations and procedures through rewriting and reformatting the POST Administrative Manual in a more logical and user-

friendly style. POST introduced the proposal at the 2006 Strategic Plan Meeting, and as a result, the added the proposal as a strategic objective.

Due to the sheer size of the project to reformat the PAM, staff will make change proposals incrementally. This proposal covers “Chapter 7 - Certificates,” which is the first of the incremental proposals to be completed due to the urgency to reflect the legislative changes effecting certificates that occurred in 2003.

The following is the list of proposed new regulations to be included in “Chapter 7 – Certificates” along with explanations of the impact of proposed changes:

Regulation 9070 Professional Certificates – Peace Officers

Replaces Regulation 1011, and Procedures F-1, part of F-2, F-4, and H-4. Amendments do not include any significant impact on the peace officer certificate program. Remove certificate cancellation/denial text from Regulation 1011(b) and (d) and is now in Regulations 9072 and 9073.

Regulation 9071: Peace Officer Disqualification and Certificate Records

Replaces part of Procedure F-2. Significant impact includes:

- 1) In accordance with Penal Code section 13503(h) and (i) deletes the authority for the Commission to cancel/revoke peace officer certificates except where authorized in law (see reasons in Regulation 9072 above), and
- 2) Deletes the authority of the Commission to request the return of professional certificates except where authorized in law (see reasons in Regulation 9072 above), and
- 3) In accordance with Penal Code section 13510.7, adds language that requires the Commission to record information on peace officer profiles to reflect when a peace officer has been disqualified from being employed as a peace officer or when a peace officer’s Basic Certificate has been determined to be null and void.

Added language has an impact on any individual who has had a conviction overturned or reversed, by placing responsibility on the individual to request that POST remove the peace officer disqualification statement from his/her POST record.

Regulation 9072: Professional Certificate – Dispatchers

Replaces Regulation 1018(f) and Procedure F-5. Amendments been made for clarity do not include any significant impact on the public safety dispatcher certificate program.

Regulation 9073: Professional Certificate – Records Supervisor

Replaces part of Regulation 1005 (h), 1011(f), and Procedure F-6. Amendments do not include any significant impact to the Records Supervisor Certificate.

Regulations numbers 9074 and 9075 are reserved for *future additions to certificate chapter*.

Regulation 9076: Certificates of Course Completion

Provides an explanation of these types of certificates and specifies what should be included on the certificate when issued by the presenter. Requires presenters to issue this type of certificate for the courses listed in Regulation 1070. This new regulation replaces current Regulation 1055(l).

Regulation 9077: Certificate Replacement

Replaces Procedure F-3. Significant impacts include: 1) makes the provisions of certificate reissuance regulatory (Procedure F-3 is currently not incorporated into regulation), and 2) removes the option for Management and Executive certificate holders to request certificate reissuance for the reason of obtaining a new certificate that reflects a change in employment jurisdiction.

Regulation 9078: Certificate Cancellations

Replaces part of Procedure F-2. Retains F-2 language that allows for cancellation due to circumstances of fraud, misrepresentation, or administrative error. No significant impact.

Text of Proposal, Rulemaking File, and Internet Access

The following information regarding the proposed regulatory action is located on the POST website at www.post.ca.gov/RegulationNotices/RegulationNotices.asp:

- POST bulletin and Notice of Proposed Regulatory Action
- Text of Proposed Regulatory Action
- Initial Statement of Reasons.

Anyone who does not have Internet access may request a copy of the above documents by calling 916.227.4847 or by submitting a written request to the **Contact Persons** listed below. Please refer to POST Bulletin 2006-18. The rulemaking file contains the above-mentioned documents and all information considered for this proposal. The Commission will maintain the file for inspection during the Commission's normal business hours (Monday through Friday, 8: a.m. to 5 p.m.).

The Final Statement of Reasons will be prepared after the close of the public comment period. To request a copy, contact POST via the above phone number, or by writing to the address under **Contact Persons** (see below) in this notice.

Contact Persons

Please direct any inquiries or comments pertaining to the proposed action to Anna Del Porto, Associate Analyst, 1601 Alhambra Boulevard, Sacramento, CA 95816-7083, by telephone at 916.227.4854, by FAX at 916.227.5271, or by email at Anna.DelPorto@post.ca.gov. The back-up contact person for this proposal is Patricia Cassidy, Associate Analyst; you may reach her by telephone at 916.227.4847, or by email at Pat.Cassidy@post.ca.gov.

Adoption of Proposed Regulations

Following the close of the public comment period, the Commission may adopt the proposal substantially as set forth without further notice or the Commission may modify the proposal if such modifications remain sufficiently related to the text as described in the Informative Digest. If the Commission makes changes to the language before the date of adoption, the text of any modified language, clearly indicated, will be available, at least 15 days before adoption, to all persons whose comments POST received during the public comment period, and to all persons who request notification from POST of the availability of such changes. Address any requests for the modified text to the agency official designated in this notice. The Commission will accept written comments on the modified text for 15 days after the date on which the revised text is available.

Estimate of Economic Impact

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Non-Discretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Costs to any Local Agency or School District for which Government Code Section 17561 Requires Reimbursement: None

Significant Statewide Adverse Economic Impact Directly Affecting California Businesses, including Small Business: The Commission on Peace Officer Standards and Training has made an initial determination that the amended regulations will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability to compete with businesses in other states. The Commission on Peace Officer Standards and Training has found that the proposed amendments will have no effect on California businesses, including small businesses, because the Commission sets selection and training standards for law enforcement and does not have an impact on California businesses, including small businesses.

Cost Impacts on Representative Private Persons or Businesses: The Commission on Peace Officer Standards and Training is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with this proposed action.

Effect on Housing Costs: The Commission on Peace Officer Standards and Training has made an initial determination that the proposed regulation would have no effect on housing costs.

Assessment

The adoption of the proposed regulation amendments will neither create nor eliminate jobs in the state of California, and will not result in the elimination of existing businesses or create or expand businesses in the State of California.

Consideration of Alternatives

To take this action, the Commission must determine that no reasonable alternative considered by the Commission, or otherwise identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective as and less burdensome to effected private persons than the proposed action.